

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  HARENet, Inc.	DOCKET NO. TCU-03-10 WRU-03-38-3719
-----------------------------	--

**ORDER APPROVING APPLICATION, APPROVING CONCURRENCE IN MAPS,  
AND GRANTING WAIVER**

(Issued October 7, 2003)

On July 14, 2003, HARENet, Inc. (HARENet), filed with the Utilities Board (Board) an application for a certificate of public convenience and necessity pursuant to Iowa Code § 476.29 (2003), stating its intention to provide local exchange service initially in the Knoxville, Iowa, exchange currently served by Iowa Telecommunications Services, Inc., d/b/a Iowa Telecom (Iowa Telecom), and to eventually provide service in other Iowa Telecom exchanges. The application has been identified as Docket No. TCU-03-10. HARENet has provided the qualifications of its company officers and financial statements and has stated it will support a 2-PIC methodology for dialing parity. Notice has been served on Iowa Telecom but has not been served on all affected carriers in the Knoxville exchange.

Iowa Code § 476.29(2) provides that a local exchange carrier shall not be denied a certificate if the Board finds that the applicant “possesses the technical, financial, and managerial ability to provide the service it proposes to render and the board finds the service is consistent with the public interest.”

The Board has reviewed HARENet's application and finds the necessary technical, financial, and managerial abilities to provide local exchange service have been demonstrated. The Board finds that it is in the public interest to approve the application.

HARENet also states that its service area will mirror the service territory of the exchanges and service area maps of Iowa Telecom as they are currently filed and may be modified in the future. Iowa Code § 476.29(4) requires that each certificate define the service territory in which land-line local telephone service will be provided and authorizes the Board to promulgate rules establishing the requirements for filing maps showing the service territory. Subrule 199 IAC 22.20(3) requires that all utilities have maps on file with the Board that show exchange boundaries. The Board finds that HARENet has complied with the statutory and rule requirements by concurring in the exchange maps of Iowa Telecom.

HARENet requests the Board waive the requirements of 199 IAC 16.5(2) and 22.3(1). The waiver request has been identified as Docket No. WRU-03-38-3719.

HARENet requests a waiver of 199 IAC 16.5(2), which requires the keeping of records according to the uniform systems of accounts. HARENet states it will maintain its books in accordance with generally accepted accounting principles (GAAP). The Board finds this waiver should be granted since records kept in accordance with GAAP accounting are acceptable for a competitive local exchange service provider.

HARENet also requests a waiver of 199 IAC 22.3(1), requiring it to independently publish a directory. The Board will grant the waiver based upon HARENet's statement that it will arrange for its customers to be included in the directories published in the areas it provides local exchange service.

Rule 199 IAC 1.3 states that the Board may grant waivers if it finds, based upon clear and convincing evidence, that the application of the rule would pose an undue hardship, the waiver would not prejudice the substantial legal rights of any person, the provisions waived are not specifically mandated by statute, and substantially equal protection of public health, safety, and welfare will be afforded after the waiver. The Board has considered the waiver requests as described above and finds that the waiver meets the four criteria of the rule and the evidence in support of the waiver is clear and convincing.

Adherence to these rules would be an undue hardship on HARENet because each rule would involve additional expense without necessity or benefit. The Board finds there are no substantial legal rights of any person that are affected by these waivers and there is no statute that specifically mandates the actions waived. Additionally, the Board finds that there will be substantially equal protection for health, safety, and welfare provided since the actions waived will be completed under different circumstances.

HARENet has not filed proposed tariffs for Board approval setting out the prices, terms, and conditions of providing local exchange service. The Board finds

that a certificate should not be issued to HARENet until it has approved tariffs. In addition, HARENet has not provided notice to all affected carriers within the Knoxville, Iowa, exchange or in the unidentified other exchanges where it intends to eventually provide local telecommunications services. For example, HARENet did not provide notice to other competitive local exchange service providers serving Knoxville or to other local exchange carriers that provide extended area service to or from Knoxville. The Board finds that a certificate should not be issued to HARENet until it has provided notice to all affected carriers within the exchanges it intends to provide service.

**IT IS THEREFORE ORDERED:**

1. The application for a certificate of public convenience and necessity filed by HARENet, Inc., on July 14, 2003, is granted subject to the requirements that follow.
2. The Board will issue a certificate of public convenience and necessity allowing HARENet, Inc., to provide local exchange service upon approval of tariffs reflecting the prices, terms, and conditions of local exchange service in Iowa and when notice has been served upon all affected carriers in the exchanges where HARENet, Inc., intends to provide local exchange service.
3. The concurrence in the maps and boundaries of the exchanges of Iowa Telecommunications Services, Inc., d/b/a Iowa Telecom, is approved.

4. The waiver of 199 IAC 16.5(2) and 22.3(1), identified as Docket No. WRU-03-38-3719, is granted as described in this order.

**UTILITIES BOARD**

\_\_\_\_\_

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 7<sup>th</sup> day of October, 2003.